IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 281 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

SAVITABEN N AMIN

Appearance:

1. INCOME TAX REFERENCE No. 281 of 1993

MR BB NAIK WITH MR MANISH R BHATT for Petitioner No. 1

NOTICE UNSERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 18/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

The Income-tax Appellate Tribunal, Ahmedabad Bench "A" has referred the following question for the opinion of this Court :-

> "Whether, the Appellate Tribunal is right in law and on facts in holding that directing the ITO to grant standard deduction of Rs.6000/- as against deduction of Rs.1000/- provided with a car from one of the two employers ?"

2. The assessment years are 1984-85 and 1985-86. The assessee was allotted a car by one of the two employers and the ITO restricted the standard deduction to Rs.1000/- as against the normal standard deduction of Rs.6000/-. The CIT (Appeals) and the Tribunal following the decision of in the assessee's own case for assessment years 1981-82 and 1983-84 in ITA Nos. 1822 to 1824/Ahd/1984 held that the issue was squarely concluded in favour of the assessee.

3. The revenue had come up in reference against the aforesaid decision and the said reference was registered as ITR No. 45 of 1986. On 10.7.2001, this Court has dealt with the said question as under :-

> "So far as the first question is concerned, in our opinion, the said question does not arise because upon perusal of para 3 of the order passed by the Tribunal, it is very clear that the Tribunal has given certain directions to the Assessing Officer to recalculate the standard deduction. It is pertinent to note that being aggrieved by the order passed by the Commissioner, Income-Tax (Appeals), the Revenue had approached the Tribunal by filing an appeal and the appeal was allowed. So far as the question with regard to computation of standard deduction is concerned, the Tribunal has remanded the matter to the Assessing Officer. In the circumstances, in our opinion, no question of law arises so far as the first question is concerned, and therefore, we decline to answer the said question."

4. In so far as the assessment years under consideration are involved, the Tribunal has not recorded any such directions as it had down in the preceding assessment years. In view of these facts and circumstances, and in absence of any independent reasoning of the Tribunal, we deem it fit to decline to answer the question referred to us. We direct the

Tribunal to take into consideration the directions issued by the Tribunal for the earlier assessment years and, if necessary, issue identical directions for the assessment years under consideration.

5. The question referred to us is, therefore, not answered. The reference stands disposed of accordingly with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-